



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA

- v. -

JULIAN HEICKLEN

Defendant.

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ORDER
10 CR 1154 (KMW)

KIMBA M. WOOD, U.S.D.J.:

On November 18, 2010, a grand jury indicted Julian Heicklen, charging him with attempting to influence the actions or decisions of a juror of a United States Court, in violation of 18 U.S.C. § 1504, a federal jury tampering statute. Heicklen moves to dismiss the Indictment on the ground that it is insufficient and duplicitous and on the ground that the statute, both on its face and as applied, is unconstitutionally overbroad in violation of the First Amendment and unconstitutionally vague in violation of the Fifth Amendment. Heicklen also moves for a jury trial and a bill of particulars, in order to clarify the nature of the charges against him.

Oral argument on these motions is scheduled for Wednesday, March 21, 2012 at 11:00 a.m. The Court requests arguments that address the sufficiency of the Indictment as a matter of law.

The Court understands 18 U.S.C. § 1504 to contain three elements: (1) that the defendant attempted to influence the action or decision of a juror of a United States court; (2) that the defendant attempted to influence that juror upon an issue or matter pending before that juror, or pending before the jury of which that juror is a member, or pertaining to that juror's duties; and (3) that the defendant attempted to influence that juror by writing or sending to that juror a

written communication in relation to such issue or matter. The Court requests arguments responding to the following two questions, in addition to other issues the parties wish to raise with regard to the sufficiency of the Indictment:

- 1) What constitutes an “issue or matter” pending before a juror?
- 2) Does the Indictment allege that Heicklen attempted to influence a juror through a written communication in relation to an “issue or matter” pending before that juror?

SO ORDERED.

DATED: New York, New York

March 19, 2012



KIMBA M. WOOD
United States District Judge